

NOTICE OF
PROPOSED RULE AMENDMENT

- The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301 and Subsection 53C-1-201(3)(c).
- Please address questions regarding information on this notice to the agency.
- The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- The full text of all rule filings may also be inspected at the Division of Administrative Rules.

Agency Information

1. Agency: Insurance - Title and Escrow Commission
 Room no.: 3110
 Building: STATE OFFICE BLDG
 Street address 1: 450 N MAIN ST
 Street address 2:
 City, state, zip: SALT LAKE CITY UT 84114-1201
 Mailing address 1: PO BOX 146901
 Mailing address 2:
 City, state, zip: SALT LAKE CITY UT 84114-6901

Contact person(s):

Name: Phone: Fax: E-mail:

Jilene Whitby	801-538-3803	801-538-3829	jwhitby@utah.gov
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(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Information

DAR file no: 38350 Date filed: 03/14/2014 09:42 AM
 State Admin Rule Filing Key: 155071
 Utah Admin. Code ref. (R no.): R 592 - 2 -
 Changed to Admin. Code ref. (R no.): - -

Title

2. Title of rule or section (catchline):

Title Insurance Administrative Hearings and Penalty Imposition.

Notice Type

3. Type of notice: Amendment

Rule Purpose

4. Purpose of the rule or reason for the change:

This rule is being changed to clarify the need for concurrence between the Commission and insurance commissioner before imposing a penalty, change fees in the fee table and distinguish between formal and informal adjudicative proceedings.

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.
No

Rule Summary

6. Summary of the rule or change:

Section 1 of the rule provides additional authority citations related to the process of concurrence and the imposition of a penalty. Section 4 eliminates reference to a Stipulation and Order and distinguishes between formal and informal proceeding. Section 5 changes the fee table: failure to complete continuing education fee is eliminated; two fees added, one for failure to provide a current email and another for doing business with lapsed license for 30 days or less; and two fees have been increased, one for failure to charge or collect correct premium and the other for failure to pay the assessment. Subsection 3 sets the procedure for an informal adjudicative proceeding that allows the Commission to receive a draft stipulation of facts and the need for the Commission and commissioner to concur before penalty is imposed. It also specifies that a party may request a formal hearing at any time. Section 6 specifies that the Commission must be advised of a matter before a hearing is scheduled. In such matters the administrative law judge will conduct the hearing unless the party requests the Commission to do so. Subsection 3 specifies that the Commission sets the date, time and place of the hearing if the Commission conduct a formal hearing. Section 7 emphasizes the requirement of concurrence between Commission and commissioner before a penalty is imposed. Throughout this rule, code and rule citations have been changed to clarify the authority of the rule.

Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No

Those changes affecting the table of penalties in Section 5 of the rule will have a fiscal impact on the department and state revenues. One penalty was eliminated, three penalties were increased and there were four new penalties added. If these penalties had been in effect in 2013 the department estimates revenues from penalties would have been increased by \$12,000.

B) Local government:

Affected: No

This rule will have no impact on local government since it deals solely with the relationship between the department and their licensees and those violating the insurance code.

C) Small businesses:

Affected: No

("small business" means a business employing fewer than 50 persons)

This rule will impacts title producers and agencies violating those areas of the law where fees have been added or increased, as noted in Section 5 of the rule. Violations include charging or collecting incorrect premiums, not paying the title assessment on time, failing to provide and maintain with the department a current email, and conducting business without a license for up to 30 days. If these changes had been in effect in 2013, it is estimated that penalties assessed in eleven cases against title producers and agencies would have totaled an additional \$12,000.

D) Persons other than small businesses, businesses, or local government entities:

Affected: No

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

This rule will impacts title agencies, some of which are large employers, violating those areas of the law where fees have been added or increased, as noted in Section 5 of the rule. Violations include charging or collecting incorrect premiums, not paying the title assessment on time, failing to provide and maintain with the department a current email, and conducting business without a license for up to 30 days. If these changes had been in effect in 2013, penalties assessed in eleven cases against title producers and agencies would have totaled an estimated additional \$12,000. These changes will have no fiscal impact on consumers.

Compliance Cost Information

8. Compliance costs for affected persons:

This rule will impacts title agencies, some of which are large employers, violating those areas of the law where fees have been added or increased, as noted in Section 5 of the rule. If these changes had been in effect in 2013, penalties assessed in eleven cases against title producers and agencies would have totaled an estimated additional \$12,000. These changes will have no fiscal impact on consumers

Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

Changes to this rule will have a fiscal impact against those who violate the law where penalties have been added or increased as in Section 5 of this rule. The changes in this law have all been discussed and agreed upon by the Title and Escrow Commission as well as other members of the industry attending the Commission's meetings.

B) Name and title of department head commenting on the fiscal impacts:

Todd E. Kiser, Insurance Commissioner

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

31A-2-404(2)(e), (g), (h) and (6)

Incorporated Materials

11. This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

<p>Official Title of Materials Incorporated (from title page):</p> <p>Publisher:</p> <p>Date Issued:</p> <p>Issue, or version:</p> <p>ISBN Number:</p> <p>ISSN Number:</p> <p>Cost of Incorporated Reference:</p> <p>Adds, updates, removes:</p>
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Comments

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) : 05/01/2014

B) A public hearing (optional) will be held:

On	At (hh:mm	At (place):
(mm/dd/yyyy):	AM/PM):	
04/14/2014	09:00 AM	Copper Room of East, Senate Building (behind Capitol), 420 N State Street, Salt Lake City, UT 84114

Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 05/08/2014

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Indexing Information

14. Indexing information - keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):
title insurance

File Information

15. Attach an RTF document containing the text of this rule change (filename):

There is a document associated with this rule filing.

To the Agency

Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.

Agency Authorization

Agency head or designee, and title:	Todd Kiser Commissioner	Date (mm/dd/yyyy):	03/14/2014
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